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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/773,764	02/06/2004	Merlin E. Thomsen	FSP0042	5578	
29586	7590	03/09/2011			
FSPLLC		EXAMINER			
P.O. BOX 890		THANH, QUANG D			
VANCOUVER, WA 98666			ART UNIT	PAPER NUMBER	
			3771		
		NOTIFICATION DATE	DELIVERY MODE		
		03/09/2011	ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/773,764	<b>Applicant(s)</b> THOMSEN, MERLIN E.
	<b>Examiner</b> Quang D. Thanh	<b>Art Unit</b> 3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-12 is/are allowed.
- 6) Claim(s) 13-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 13-14, 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Licht et al. (6,428,466).
3. Re claims 13-14, Licht et al. discloses an apparatus comprising a fluid-tight barrier 61, an open table (best seen in fig. 2) over which the fluid-tight barrier is mounted at a position to make contact with a person lying on the open table, jets 32 enclosed within the barrier, and a control system 60 to cause the jets to apply fluid under pressure to an interior surface of the barrier as the barrier is translated along the table (col. 3, lines 24-27); to apply motion (along the pulsating movement of the fluid against the barrier, col. 3, lines 24-27) in addition to translation motion to the movable barrier as the movable barrier is translated over the table.
4. Re claims 16-17, Licht et al. discloses an apparatus comprising: an open cushioned table (bed 17 including pad 19) unenclosed by a lid (best seen in fig. 2); a water-tight barrier 61 movably mounted over the open cushioned table; and a control system 60 to cause application of fluid under pressure to an interior surface of the barrier as the barrier is translated along and over the table (col. 3, lines 24-27); to apply motion (along the pulsating movement of the fluid against the barrier, col. 3, lines 24-27) in addition to translation motion to the movable barrier as the movable barrier is translated over the table.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Licht et al. in view of Mutzell. Licht et al. discloses an apparatus having all the features a except that it does not disclose a translation guide system mounted below a surface of the table. However, Mutzell teaches a similar apparatus having a translation guide system 61 that is mounted below the table (fig.. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Licht et al., to include a translation guide system mounted below the table, as suggested and taught by Mutzell, for the purpose of providing means for translating the barrier along the table inside the bottom cabinet.

***Allowable Subject Matter***

7. Claims 1-12 are allowed.

***Response to Arguments***

8. Applicant's arguments filed 7/31/2008 have been fully considered but they are not persuasive.
9. In response to applicant's argument that "Licht does not teach an open table" and " in Licht, when the barrier is in contact with a person lying on the table, the table is completely enclosed and covered. It is not 'open'.", applicant's attention is directed to col. 2, lines 43-48 in the Licht reference, which clearly teaches that the lid is in the open or raised position to allow a person enter the table. Accordingly, at a certain time when

the lid is in the open position, the table is also open because it is not enclosed and covered by the lid and thus appears to comprehend the claimed language "open table".

10. In response to applicant's argument that "The person lying on the table is partially covered; the table is not, and it certainly is not open to the outside.", applicant's attention is directed to col. 5, lines 49-55 in the Licht reference, which clearly teaches that "a spa capsule partially enclosing a person's body" and an opening 15 (best seen in fig. 1) that allows the person in the spa to communicate with the space outside the spa (col. 2, lines 37-40). Accordingly, the opening 15 definitely allows the table to be open to the outside and thus appears to comprehend the claimed language "open table". Moreover, applicant's attention is directed to col. 2, lines 59-60 in the Licht reference and fig. 2, which clearly teaches that "Fig. 2 shows a perspective with exterior portions and the lid remove" of an open table and thus appears to comprehend the claimed language "open table".

11. In response to applicant's argument that there is no motivation to combine Licht with Mutzell, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Licht's translation guide system mounted above the table and not below the table. Mutzell is cited to teach a water jet massage apparatus having a translation guide system 61 that is mounted

below the table (fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Licht et al., to include a translation guide system mounted below the table, as suggested and taught by Mutzell, for the purpose of providing means for translating the barrier along the table.

12. Applicant's arguments regarding claims 15 and 18 have been fully considered but they are not persuasive because they amount to a general allegation that "the translation system of Mutzell would not work with a barrier mounted in a capsule" and "the capsule of Licht would prevent the translation system of Mutzell from translating the barrier over the table" without specifically pointing out how the combining the two references would not work. It is unclear to the examiner how the shape of the Licht 's barrier "is the wrong shape to work effectively with the free translation of Mutzell" since there appears that the shape of the barrier does not affect the translation system that would move the barrier.

#### *Conclusion*

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh/  
Primary Examiner, Art Unit 3771